

**PT 98-26**

**Tax Type: PROPERTY TAX**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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**CRETE LODGE NO. 763  
A.F. & A.M. OF ILLINOIS,  
APPLICANT**

**v.**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE**

**Docket No. 95-99-159**

**Real Estate Exemption  
For 1995 Assessment Year**

**P.I.N. 15-16-101-001  
15-16-101-002  
Will County Parcel**

**Robert C. Rymek  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**SYNOPSIS**

This proceeding raises the issue of whether Will County Parcel Index Numbers 15-16-101-001 and 5-16-101-002 (hereinafter jointly referred to as the “subject property”) should be exempt as property of an “institution of public charity” under section 15-65 of the Property Tax Code. 35 ILCS 200/15-65 (West 1996).

This controversy arose as follows:

On October 16, 1995, Crete Lodge No. 763 A.F. & A.M. of Illinois (hereinafter “Crete Lodge” or “applicant”) filed an Application for Property Tax Exemption Complaint with the Will County Board of Review. The Board reviewed Crete Lodge’s application and on October 27, 1995, recommended that a full-year exemption be granted

for the 1995 assessment year. On January 5, 1996, the Illinois Department of Revenue (hereinafter the “Department”) rejected the Board’s recommendation and denied the exemption concluding that the property was not in exempt ownership or exempt use. Crete Lodge filed a timely appeal from the Department’s denial of exemption. On January 24, 1997, a formal administrative hearing was held at which evidence was presented. Following a careful review of all the evidence it is recommended that the subject property not be exempted from 1995 real estate taxes.

### **FINDINGS OF FACT**

1. Dept. Gr. Ex. No. 1 establishes the Department’s jurisdiction over this matter and its position that the subject parcel was not in exempt use or exempt ownership during 1995.
2. The subject property consists of approximately 8,300 square feet of land which is improved with a building having an address of 1419 Main Street, Crete, Illinois, 60417. Dept. Gr. Ex. 1; App. Ex. No. 7.
3. The building consists of two levels - each approximately 3,000 square foot in size. App. Ex. No. 4.
4. Crete Lodge acquired the subject property via a warranty deed dated November 15, 1903. App. Ex. No. 3.
5. Crete Lodge is a Masonic lodge chartered in 1882 by the Grand Masonic Lodge of Illinois. Tr. pp. 8-11; Applicant Ex. Nos. 2, 8.
6. The Masons are a worldwide organization. Tr. p. 11.

7. In 1995, Crete Lodge held at least 33 Masonic meetings at the subject property.<sup>1</sup> Tr. pp. 41-43, 65-66.
8. Crete Lodge's members make charitable donations to various organizations and occasionally physically participate in charitable activities. The number of charitable activities that the applicant's members physically participated in was not stated and only two examples were offered: Kettle Day and Doughnut Day. Tr. p. 10.
9. Crete Lodge held two pancake breakfast fundraisers and one beef dinner fund-raiser in 1995. Between 200 and 270 people attended each event. Admission price was \$3.25 for the pancake breakfasts and \$6 for the beef dinner. These events were open to the general public and nobody was turned away for failing to pay. Tr. pp. 34-37.
10. Crete Lodge holds an annual picnic at Goodnow Forest Preserve which is open to everyone in the village. Tr. pp. 46-47.
11. In 1995, members of Crete Lodge paid dues of \$25 with \$5 going to the state lodge while the remaining \$20 stayed within Crete Lodge. Tr. pp. 53-54.
12. Crete Lodge's bylaws have a provision for expelling those who do not pay dues. However, that provision was not exercised in 1995. Tr. pp. 54.

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<sup>1</sup> Due to vague, overlapping, and seemingly inconsistent testimony, it is impossible to tell precisely how many meetings were held. However, the figure would appear to be somewhere between 33 and 250 meetings. This great variance is due, in part, to the fact that the transcript indicates that 189 special meetings were held, however, that number seems excessive and is most likely a typographical error. Tr. 41-43, 66

13. In 1995 Crete Lodge had total income of \$9,323.39 which was derived as follows:

- (a) 71% from membership dues, fees, and donations;
- (b) 22% from fundraising events; and
- (c) 7% from interest income.

App. Ex. 9.

14. In 1995 Crete Lodge had \$10,693.82 in expenses which can be apportioned as follows:

- (a) 66% for building upkeep and related fees;
- (b) 13% for civic and Masonic charitable donations;
- (c) 12% for members services; and
- (d) 9% for fundraising event expenses.

App. Ex. 9.

### **CONCLUSIONS OF LAW**

An examination of the record establishes that this applicant has not demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant an exemption from property taxes for the 1995 assessment year. Accordingly, under the reasoning given below, the determination by the Department that the subject property does not qualify for exemption should be affirmed. In support thereof, I make the following conclusions:

The burden of proving the right to exemption is on the party seeking the exemption. Methodist Old Peoples Home v. Korzen (1968), 39 Ill. 2d 149. In determining whether an applicant is entitled to an exemption, “all facts are to be construed and all debatable questions are to be resolved in favor of taxation.” *Id.* at 155.

Here, Crete Lodge is seeking a property tax exemption under Section 15-65 of the Property Tax Code which states, in relevant part:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to a profit:

(a) institutions of public charity. 35 ILCS 200/15-65 (West 1996).

Thus, to be entitled to the property tax exemption, Crete Lodge must show: (1) it is an institution of public charity; and (2) the subject property was actually and exclusively<sup>2</sup> used for charitable or beneficent purposes.

When considering whether Crete Lodge is an institution of public charity, it is worth noting that Masonic activity was at one time considered to be necessarily charitable in nature. See Most Worshipful Grand Lodge of Ancient Free & Accepted Masons v. Board of Review, 281 Ill. 40 (1917). However, the courts of this state have subsequently discarded the notion that Masonry is an inherently charitable enterprise. People ex rel. Nelson v. Rockford Masonic Temple Building Association, 348 Ill. 567 (1932); People ex rel. Thompson v. Dixon Masonic Lodge, 348 Ill. 593 (1932); Pontiac Lodge No. 294 v. Department of Revenue, 243 Ill. App. 3d 186 (1993). Rather, the courts look to whether charity is the “primary purpose” of Masonic organization seeking the exemption. Morton Temple Ass’n v. Dept of Revenue, 158 Ill. App. 3d 794 (1987).

Here, the members of Crete Lodge occasionally physically participate in charitable activities. However, such physical participation appears to be infrequent. The majority of Crete Lodge’s acts of charity are in the form of monetary donations. However, those monetary donations constituted only 13% of Crete Lodge’s expenses in 1995. Such incidental acts of charity by an organization will not be enough to establish

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<sup>2</sup> The word “exclusively,” when used in tax exemption statutes means “the primary purpose for which property is used and not any secondary or incidental purpose.” Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430 (1987); Pontiac Lodge No. 294, A.F. & A.M. v. Department of Revenue, 243 Ill. App. 3d 186 (1993).

that the organization is a charitable institution. *Id.* at 796. On the other hand, 78% of Crete Lodge's expenses in 1995 resulted from the ownership of the subject property and the provision of membership services. Accordingly, it appears that Crete Lodge's primary purpose was not charity, but rather to own and maintain the subject property and provide membership services. *Id.* at 796. Therefore, granting a property tax exemption would be inappropriate since Crete Lodge failed to show that it is an "institution of public charity" within the meaning of section 15-65 of the Property Tax Code. 35 ILCS 200/15-65 (West 1996).

Even if Crete Lodge had established that it was an institution of public charity, the subject property would still not be entitled to a property tax exemption since the subject property was not "exclusively used for charitable or beneficent purposes." 35 ILCS 200/15-65 (West 1996).

Crete Lodge presented evidence that the subject property was used for three fundraising events in 1995. Although these fund-raising events apparently funded some of Crete Lodge's charitable donations, these events were rare when compared with the Masonic membership uses. In fact, the subject property was used at least 10 times more frequently for Masonic meetings than it was for fundraising events. Moreover, the applicant did not present evidence establishing that matters of charity dominated the meetings. Under these circumstances, it would be improper to conclude that the subject property was used exclusively for charitable or beneficent purposes. See Pontiac Lodge, 243 Ill. App. 3d at 194.

For the reasons set forth above, I recommend that the subject parcel be denied exemption from 1995 real estate taxes.

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Date

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Robert C. Rymek  
Administrative Law Judge